

AMENDED IN SENATE APRIL 29, 2015

**SENATE BILL**

**No. 605**

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**Introduced by Senator Gaines**

February 27, 2015

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An act to amend, repeal, and add Section 76140 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 605, as amended, Gaines. Community colleges: exemption from nonresident tuition fee: Lake Tahoe Community College District.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts throughout the state, including the Lake Tahoe Community College District, and authorizes them to operate campuses and provide instruction to students. Existing law authorizes community college districts to admit nonresident students, and requires that nonresident students be charged a nonresident tuition fee unless an exemption is applicable.

This bill would exempt from the nonresident tuition fee students who attend Lake Tahoe Community College and who have residence in one of several designated communities in Nevada, as provided. The bill would require the governing board of the Lake Tahoe Community College District to adopt rules and regulations for determining a student's residence classification and for establishing procedures for an appeal and review of the residence classification. These provisions would become inoperative on July 1, 2022, and would be repealed on January 1, 2023.

By imposing new duties on the Lake Tahoe Community College District, the bill would create a state-mandated local program.

(2) This bill would make a legislative finding and declaration as to the necessity of a special statute for the Lake Tahoe Community College District with respect to students who reside in nearby communities located in Nevada.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) This bill would declare that it would not become operative unless, on or before July 1, 2021, the ~~Chancellor of the California Community Colleges determines that the State of Nevada has enacted a statute providing~~ *Board of Governors of the California Community Colleges enters into an interstate attendance agreement with the Nevada System of Higher Education that provides reciprocal rights to California residents attending Nevada colleges* ~~Western Nevada College~~ that reasonably conform to the benefits conferred upon Nevada residents by this bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 76140 of the Education Code is amended  
2 to read:  
3 76140. (a) A community college district may admit, and shall  
4 charge a tuition fee to, nonresident students, except that a  
5 community college district may exempt from all or parts of the  
6 fee any person described in paragraph (1), (2), (3), (4), or (6), and  
7 shall exempt from all of the fee any person described in paragraph  
8 (5):  
9 (1) All nonresidents who enroll for six or fewer units.  
10 Exemptions made pursuant to this paragraph shall not be made on  
11 an individual basis.  
12 (2) Any nonresident who is both a citizen and resident of a  
13 foreign country, if the nonresident has demonstrated a financial

1 need for the exemption. Not more than 10 percent of the  
2 nonresident foreign students attending any community college  
3 district may be so exempted. Exemptions made pursuant to this  
4 paragraph may be made on an individual basis.

5 (3) (A) A student who, as of August 29, 2005, was enrolled,  
6 or admitted with an intention to enroll, in the fall term of the  
7 2005–06 academic year in a regionally accredited institution of  
8 higher education in Alabama, Louisiana, or Mississippi, and who  
9 could not continue his or her attendance at that institution as a  
10 direct consequence of damage sustained by that institution as a  
11 result of Hurricane Katrina.

12 (B) The chancellor shall develop guidelines for the  
13 implementation of this paragraph. These guidelines shall include  
14 standards for appropriate documentation of student eligibility to  
15 the extent feasible.

16 (C) This paragraph shall apply only to the 2005–06 academic  
17 year.

18 (4) A special part-time student admitted pursuant to Section  
19 76001.

20 (5) A nonresident student who is a United States citizen who  
21 resides in a foreign country, if that nonresident meets all of the  
22 following requirements:

23 (A) Demonstrates a financial need for the exemption.

24 (B) Has a parent or guardian who has been deported or was  
25 permitted to depart voluntarily under the federal Immigration and  
26 Nationality Act in accordance with Section 1229c of Title 8 of the  
27 United States Code. The student shall provide documents from the  
28 United States Citizenship and Immigration Services evidencing  
29 the deportation or voluntary departure of his or her parent or  
30 guardian.

31 (C) Moved abroad as a result of the deportation or voluntary  
32 departure specified in subparagraph (B).

33 (D) Lived in California immediately before moving abroad. The  
34 student shall provide information and evidence that demonstrates  
35 the student previously lived in California.

36 (E) Attended a public or private secondary school, as described  
37 in Sections 52 and 53, in the state for three or more years. The  
38 student shall provide documents that demonstrate his or her  
39 secondary school attendance.

1 (F) Upon enrollment, will be in his or her first academic year  
2 as a matriculated student in California public higher education, as  
3 that term is defined in subdivision (a) of Section 66010, will be  
4 living in California, and will file an affidavit with the institution  
5 stating that he or she intends to establish residency in California  
6 as soon as possible.

7 (6) (A) A student who attends Lake Tahoe Community College  
8 and who has residence, pursuant to subparagraph (B), in one of  
9 the following communities in Nevada:

10 (i) Incline Village.

11 (ii) Kingsbury.

12 (iii) Round Hill.

13 (iv) Skyland.

14 (v) Stateline.

15 (vi) Zephyr Cove.

16 (B) Residence shall be determined pursuant to Article 5  
17 (commencing with Section 68060) of Chapter 1 of Part 41 of  
18 Division 5. A person shall have residence in one of the  
19 communities listed in subparagraph (A) if the person has lived in  
20 the community for more than one year immediately prior to seeking  
21 the fee exemption pursuant to this paragraph.

22 (C) The governing board of the Lake Tahoe Community College  
23 District shall adopt rules and regulations for determining a student's  
24 residence classification and for establishing procedures for an  
25 appeal and review of the residence classification. No more than  
26 200 students shall be exempted from payment of a nonresident  
27 tuition fee under this paragraph in any academic year.

28 (b) A district may contract with a state, a county contiguous to  
29 California, the federal government, or a foreign country, or an  
30 agency thereof, for payment of all or a part of a nonresident  
31 student's tuition fee.

32 (c) Nonresident students shall not be reported as full-time  
33 equivalent students (FTES) for state apportionment purposes,  
34 except as provided by subdivision (j) or another statute, in which  
35 case a nonresident tuition fee may not be charged.

36 (d) The nonresident tuition fee shall be set by the governing  
37 board of each community college district not later than February  
38 1 of each year for the succeeding fiscal year. The governing board  
39 of each community college district shall provide nonresident  
40 students with notice of nonresident tuition fee changes during the

1 spring term before the fall term in which the change will take  
2 effect. Nonresident tuition fee increases shall be gradual, moderate,  
3 and predictable. The fee may be paid in installments, as determined  
4 by the governing board of the district.

5 (e) (1) The fee established by the governing board pursuant to  
6 subdivision (d) shall represent for nonresident students enrolled  
7 in 30 semester units or 45 quarter units of credit per fiscal year  
8 one or more of the following:

9 (A) The amount that was expended by the district for the  
10 expense of education as defined by the California Community  
11 ~~College~~ Colleges Budget and Accounting Manual in the preceding  
12 fiscal year increased by the projected percent increase in the United  
13 States Consumer Price Index as determined by the Department of  
14 Finance for the current fiscal year and succeeding fiscal year and  
15 divided by the FTES (including nonresident students) attending  
16 in the district in the preceding fiscal year. However, if for the  
17 district's preceding fiscal year FTES of all students attending in  
18 the district in noncredit courses is equal to, or greater than, 10  
19 percent of the district's total FTES attending in the district, the  
20 district may substitute the data for expense of education in grades  
21 13 and 14 and FTES in grades 13 and 14 attending in the district.

22 (B) The expense of education in the preceding fiscal year of all  
23 districts increased by the projected percent increase in the United  
24 States Consumer Price Index as determined by the Department of  
25 Finance for the fiscal year and succeeding fiscal year and divided  
26 by the FTES (including nonresident students) attending all districts  
27 during the preceding fiscal year. However, if the amount calculated  
28 under this paragraph for the succeeding fiscal year is less than the  
29 amount established for the current fiscal year or for any of the past  
30 four fiscal years, the district may set the nonresident tuition fee at  
31 the greater of the current or any of the past four-year amounts.

32 (C) An amount not to exceed the fee established by the  
33 governing board of any contiguous district.

34 (D) An amount not to exceed the amount that was expended by  
35 the district for the expense of education, but in no case less than  
36 the statewide average as set forth in subparagraph (B).

37 (E) An amount no greater than the average of the nonresident  
38 tuition fees of public community colleges of no less than 12 states  
39 that are comparable to California in cost of living. The  
40 determination of comparable states shall be based on a composite

1 cost-of-living index as determined by the United States Department  
2 of Labor or a cooperating government agency.

3 (2) The additional revenue generated by the increased  
4 nonresident tuition permitted under the amendments made to this  
5 subdivision during the 2009–10 Regular Session shall be used to  
6 expand and enhance services to resident students. In no event shall  
7 the admission of nonresident students come at the expense of  
8 resident enrollment.

9 (f) The governing board of each community college district also  
10 shall adopt a tuition fee per unit of credit for nonresident students  
11 enrolled in more or less than 15 units of credit per term by dividing  
12 the fee determined in subdivision (e) by 30 for colleges operating  
13 on the semester system and 45 for colleges operating on the quarter  
14 system and rounding to the nearest whole dollar. The same rate  
15 shall be uniformly charged nonresident students attending any  
16 terms or sessions maintained by the community college. The rate  
17 charged shall be the rate established for the fiscal year in which  
18 the term or session ends.

19 (g) Any loss in district revenue generated by the nonresident  
20 tuition fee shall not be offset by additional state funding.

21 (h) Any district that has fewer than 1,500 FTES and whose  
22 boundary is within 10 miles of another state that has a reciprocity  
23 agreement with California governing student attendance and fees  
24 may exempt students from that state from the mandatory fee  
25 requirement described in subdivision (a) for nonresident students.

26 (i) Any district that has more than 1,500, but less than 3,001,  
27 FTES and whose boundary is within 10 miles of another state that  
28 has a reciprocity agreement with California governing student  
29 attendance and fees may, in any one fiscal year, exempt up to 100  
30 FTES from that state from the mandatory fee requirement described  
31 in subdivision (a) for nonresident students.

32 (j) The attendance of nonresident students who are exempted  
33 pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (5),  
34 or (6) of subdivision (a), from the mandatory fee requirement  
35 described in subdivision (a) for nonresident students may be  
36 reported as resident FTES for state apportionment purposes. Any  
37 nonresident student reported as resident FTES for state  
38 apportionment purposes pursuant to subdivision (h) or (i) shall  
39 pay a per unit fee that is three times the amount of the fee  
40 established for residents pursuant to Section 76300. That fee is to

1 be included in the FTES adjustments described in Section 76300  
2 for purposes of computing apportionments.

3 (k) This section shall become inoperative on July 1, 2022, and,  
4 as of January 1, 2023, is repealed, unless a later enacted statute,  
5 that becomes operative on or before January 1, 2023, deletes or  
6 extends the dates on which it becomes inoperative and is repealed.

7 SEC. 2. Section 76140 is added to the Education Code, to read:

8 76140. (a) A community college district may admit, and shall  
9 charge a tuition fee to, nonresident students, except that a  
10 community college district may exempt from all or parts of the  
11 fee any person described in paragraph (1), (2), (3), or (4), and shall  
12 exempt from all of the fee any person described in paragraph (5):

13 (1) All nonresidents who enroll for six or fewer units.  
14 Exemptions made pursuant to this paragraph shall not be made on  
15 an individual basis.

16 (2) Any nonresident who is both a citizen and resident of a  
17 foreign country, if the nonresident has demonstrated a financial  
18 need for the exemption. Not more than 10 percent of the  
19 nonresident foreign students attending any community college  
20 district may be so exempted. Exemptions made pursuant to this  
21 paragraph may be made on an individual basis.

22 (3) (A) A student who, as of August 29, 2005, was enrolled,  
23 or admitted with an intention to enroll, in the fall term of the  
24 2005–06 academic year in a regionally accredited institution of  
25 higher education in Alabama, Louisiana, or Mississippi, and who  
26 could not continue his or her attendance at that institution as a  
27 direct consequence of damage sustained by that institution as a  
28 result of Hurricane Katrina.

29 (B) The chancellor shall develop guidelines for the  
30 implementation of this paragraph. These guidelines shall include  
31 standards for appropriate documentation of student eligibility to  
32 the extent feasible.

33 (C) This paragraph shall apply only to the 2005–06 academic  
34 year.

35 (4) A special part-time student admitted pursuant to Section  
36 76001.

37 (5) A nonresident student who is a United States citizen who  
38 resides in a foreign country, if that nonresident meets all of the  
39 following requirements:

40 (A) Demonstrates a financial need for the exemption.

1 (B) Has a parent or guardian who has been deported or was  
2 permitted to depart voluntarily under the federal Immigration and  
3 Nationality Act in accordance with Section 1229c of Title 8 of the  
4 United States Code. The student shall provide documents from the  
5 United States Citizenship and Immigration Services evidencing  
6 the deportation or voluntary departure of his or her parent or  
7 guardian.

8 (C) Moved abroad as a result of the deportation or voluntary  
9 departure specified in subparagraph (B).

10 (D) Lived in California immediately before moving abroad. The  
11 student shall provide information and evidence that demonstrates  
12 the student previously lived in California.

13 (E) Attended a public or private secondary school, as described  
14 in Sections 52 and 53, in the state for three or more years. The  
15 student shall provide documents that demonstrate his or her  
16 secondary school attendance.

17 (F) Upon enrollment, will be in his or her first academic year  
18 as a matriculated student in California public higher education, as  
19 that term is defined in subdivision (a) of Section 66010, will be  
20 living in California, and will file an affidavit with the institution  
21 stating that he or she intends to establish residency in California  
22 as soon as possible.

23 (b) A district may contract with a state, a county contiguous to  
24 California, the federal government, or a foreign country, or an  
25 agency thereof, for payment of all or a part of a nonresident  
26 student's tuition fee.

27 (c) Nonresident students shall not be reported as full-time  
28 equivalent students (FTES) for state apportionment purposes,  
29 except as provided by subdivision (j) or another statute, in which  
30 case a nonresident tuition fee may not be charged.

31 (d) The nonresident tuition fee shall be set by the governing  
32 board of each community college district not later than February  
33 1 of each year for the succeeding fiscal year. The governing board  
34 of each community college district shall provide nonresident  
35 students with notice of nonresident tuition fee changes during the  
36 spring term before the fall term in which the change will take  
37 effect. Nonresident tuition fee increases shall be gradual, moderate,  
38 and predictable. The fee may be paid in installments, as determined  
39 by the governing board of the district.



(e) (1) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year one or more of the following:

(A) The amount that was expended by the district for the expense of education as defined by the California Community College-Colleges Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year. However, if for the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district may substitute the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(B) The expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year. However, if the amount calculated under this paragraph for the succeeding fiscal year is less than the amount established for the current fiscal year or for any of the past four fiscal years, the district may set the nonresident tuition fee at the greater of the current or any of the past four-year amounts.

(C) An amount not to exceed the fee established by the governing board of any contiguous district.

(D) An amount not to exceed the amount that was expended by the district for the expense of education, but in no case less than the statewide average as set forth in subparagraph (B).

(E) An amount no greater than the average of the nonresident tuition fees of public community colleges of no less than 12 states that are comparable to California in cost of living. The determination of comparable states shall be based on a composite cost-of-living index as determined by the United States Department of Labor or a cooperating government agency.

(2) The additional revenue generated by the increased nonresident tuition permitted under the amendments made to this

1 subdivision during the 2009–10 Regular Session shall be used to  
2 expand and enhance services to resident students. In no event shall  
3 the admission of nonresident students come at the expense of  
4 resident enrollment.

5 (f) The governing board of each community college district also  
6 shall adopt a tuition fee per unit of credit for nonresident students  
7 enrolled in more or less than 15 units of credit per term by dividing  
8 the fee determined in subdivision (e) by 30 for colleges operating  
9 on the semester system and 45 for colleges operating on the quarter  
10 system and rounding to the nearest whole dollar. The same rate  
11 shall be uniformly charged nonresident students attending any  
12 terms or sessions maintained by the community college. The rate  
13 charged shall be the rate established for the fiscal year in which  
14 the term or session ends.

15 (g) Any loss in district revenue generated by the nonresident  
16 tuition fee shall not be offset by additional state funding.

17 (h) Any district that has fewer than 1,500 FTES and whose  
18 boundary is within 10 miles of another state that has a reciprocity  
19 agreement with California governing student attendance and fees  
20 may exempt students from that state from the mandatory fee  
21 requirement described in subdivision (a) for nonresident students.

22 (i) Any district that has more than 1,500, but less than 3,001,  
23 FTES and whose boundary is within 10 miles of another state that  
24 has a reciprocity agreement with California governing student  
25 attendance and fees may, in any one fiscal year, exempt up to 100  
26 FTES from that state from the mandatory fee requirement described  
27 in subdivision (a) for nonresident students.

28 (j) The attendance of nonresident students who are exempted  
29 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) or  
30 (5) of subdivision (a), from the mandatory fee requirement  
31 described in subdivision (a) for nonresident students may be  
32 reported as resident FTES for state apportionment purposes. Any  
33 nonresident student reported as resident FTES for state  
34 apportionment purposes pursuant to subdivision (h) or (i) shall  
35 pay a per unit fee that is three times the amount of the fee  
36 established for residents pursuant to Section 76300. That fee is to  
37 be included in the FTES adjustments described in Section 76300  
38 for purposes of computing apportionments.

39 (k) This section shall become operative on July 1, 2022.

1 SEC. 3. The Legislature finds and declares that a special law  
2 is necessary and that a general law cannot be made applicable  
3 within the meaning of Section 16 of Article IV of the California  
4 Constitution because of the unique circumstances of the Lake  
5 Tahoe Community College District with respect to students who  
6 reside in nearby communities located in Nevada.

7 SEC. 4. If the Commission on State Mandates determines that  
8 this act contains costs mandated by the state, reimbursement to  
9 local agencies and school districts for those costs shall be made  
10 pursuant to Part 7 (commencing with Section 17500) of Division  
11 4 of Title 2 of the Government Code.

12 SEC. 5. This act shall not become operative unless, on or before  
13 July 1, 2021, the ~~Chancellor of the California Community Colleges~~  
14 ~~determines that the State of Nevada has enacted a statute providing~~  
15 *Board of Governors of the California Community Colleges enters*  
16 *into an interstate attendance agreement with the Nevada System*  
17 *of Higher Education that, in a manner that is consistent with*  
18 *subdivision (a) of Section 66801 of the Education Code, provides*  
19 reciprocal rights to California residents attending Nevada colleges  
20 *Western Nevada College* that reasonably conform to the benefits  
21 conferred upon Nevada residents by Section 1 of this act. The  
22 ~~chancellor~~ *Chancellor of the California Community Colleges* shall  
23 promptly post ~~this determination~~ *notice of this interstate attendance*  
24 *agreement* on the Internet Web site of the California Community  
25 Colleges.